

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:05CV80**

<b>IN RE:</b>	)	
<b>OTTO CLAUDE and LINDA C.</b>	)	
<b>SMITH,</b>	)	
	)	
<b>Debtors.</b>	)	
<hr/>		
<b>OTTO CLAUDE SMITH and LINDA C.</b>	)	
<b>SMITH,</b>	)	
	)	
<b>Appellants,</b>	)	
	)	
<b>Vs.</b>	)	
	)	
<b>CROWFIELDS CONDOMINIUM</b>	)	
<b>ASSOCIATION,</b>	)	
	)	
<b>Appellee.</b>	)	
<hr/>		

**ORDER OF DISMISSAL**

**THIS MATTER** is before the Court on the Appellee's motion to dismiss the appeal herein. No response has been received from the Appellants/Debtors.

The Order from which the Appellants sought to appeal was entered on March 17, 2005. The Appellants' notice of appeal was filed on March 31, 2005, 14 days later. The three day extension provided by Bankruptcy Rule 9006(f) applies only when a time period begins to run from the date of service of an order. The ten-day period within which to file a notice of appeal provided by Bankruptcy Rule 8002(a) is not such a period and the time begins to run from the date of entry of the order, not service thereof. *In re Williams*, 216 F.3d 1295 (11<sup>th</sup> Cir. 2000); *In re B. J. McAdams, Inc.*, 999 F.2d 1221 (8<sup>th</sup> Cir. 1993); *In re Arbuckle*, 988 F.2d 29, 31-32

(5<sup>th</sup> Cir. 1993); *In re Wigoda*, 11 Fed. Appx. 634, 635 (7<sup>th</sup> Cir. 2001); *Brown v. Zaneck*, 162

F.3d 1172 (table), 1998 WL 738340 (10<sup>th</sup> Cir. 1998).

**IT IS, THEREFORE, ORDERED** that the appeal is hereby **DISMISSED** as untimely.

**Signed: May 10, 2005**

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

